

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to open a docket to implement the provisions of)	
Section 6w of 2016 PA 341 for)	
DTE ELECTRIC COMPANY'S)	Case No. U-18248
service territory.)	
_____)	

At the January 20, 2017 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER INITIATING PROCEEDING AND NOTICE OF HEARING

A 21st century economy depends in large measure on the availability of safe, reliable, and affordable electricity. Beginning in 1998, the Commission annually has monitored the adequacy and reliability of the electric capacity in this state, first for the three major Lower Peninsula electric utilities,¹ and later, for all Michigan-regulated electric utilities, rural electric cooperatives, alternative electric suppliers, utility affiliates, and even power supply cooperatives and associations, by requesting a self-assessment of their ability to meet their customers' expected electric requirements and associated planning reserve margins. Also, the Commission has invited

¹ These utilities include The Detroit Edison Company (now known as DTE Electric Company), Consumers Energy Company (Consumers), and Indiana Michigan Power Company.

others, including the Midcontinent Independent System Operator, Inc. (MISO), to add their expertise to these investigations.

In concluding the annual investigation into resource adequacy and supply reliability for the five-year period of 2016-2020 that was the subject of Case No. U-17992, the Commission observed that it was the opinion of the Commission Staff (Staff) that “[w]hen comparing Zone 7² resources to the [planning reserve margin or PRM] requirements, the Staff found that, when only in-zone resources are considered, there is a shortfall of 270 ZRCs³ in the 2017/2018 planning year (and smaller shortfalls in the 2018/2019 and 2020/2021 planning years); but when resources located outside the zone are added in, the Staff finds that the total imports will be well within the MISO capacity import limits and the PRM requirements will be satisfied.” July 22, 2016 order, Case No. U-17992, p. 6. However, the Staff also reported that the MISO region as a whole is expected to experience a shortfall in the PRM as early as 2018 due to certain announced plant retirements, which would cause the long-term resource adequacy outlook in Michigan to be uncertain.

That uncertainty regarding the long-term resource adequacy outlook in Michigan was a source of concern for the Commission, which remarked that “[a]dditional equipment failures that require permanent closure of units could occur given the age of our generating fleet in Michigan and the fact that utilities are making decisions to limit investments in these units due to their planned retirement in the coming years. Power plant owners could also decide to retire plants early due to

² Zone 7 is MISO’s designation for the portion of Michigan’s Lower Peninsula included in MISO’s footprint.

³ ZRCs or zonal resource credits are credits for owning resources that count towards MISO resource adequacy requirements.

economics...”. July 22, 2016 order, Case No. U-17992, p. 10. As it has turned out, an August 11, 2016 fire at DTE Electric’s St. Clair power plant and the December 8, 2016 announcement by Consumers and Entergy Corporation regarding the early termination of the Commission-approved power purchase agreement whereby Consumers purchases electricity generated by Entergy’s Palisades Nuclear Power Plant added to the urgency of finding a solution to Michigan’s long-term resource adequacy situation. But, unanticipated resource adequacy shortfalls experienced by investor-owned utilities are not the sole source for concern. The Commission has previously been on record expressing the need to ensure that all load serving entities, including utilities and alternative electric suppliers (AESs) contribute to solving the long-term capacity needs of this state.⁴ Now, as a result of a currently pending regulatory proceeding before the Federal Energy Regulatory Commission (FERC) and recent legislative changes approved by Michigan’s Legislature, a workable solution appears to be at hand. The opening of this docket is the initial step in addressing the improvement of the long-term resource adequacy concerns for customers of DTE Electric, including those served by AESs.

The pending FERC proceeding was preceded by an extensive stakeholder process during which MISO agreed to a state approach, known as the prevailing state compensation mechanism⁵ (PSCM), for establishing adequate electrical resources to meet reliability requirements in Michigan. The MISO efforts culminated in the November 1, 2016 filing of an application by MISO before the FERC that proposes a new Module E-3 and revisions to its Module A, D, and

⁴ See, the December 4, 2014 order in Case No. U-17523 and the July 23, 2015 order in Case No. U-17751.

⁵ The PSCM is intended to provide a source of funds to the utility that bears ultimate responsibility for procuring that resource in the form of a capacity charge for whatever portion of its requirement is not met by an approved forward fixed resource adequacy plan (FFRAP).

E-1, which, if approved, will establish a Forward Resource Auction (FRA) to operate in conjunction with MISO's existing Planning Reserve Auction (PRA). MISO's filing includes the optional PSCM should an affected state elect to employ it. The proposed tariff provisions would be effective for the 2018 planning year, subject to FERC approval. The Commission, the Michigan Agency for Energy, and other entities have filed supporting comments in the FERC proceeding because MISO's filing addresses the resource adequacy needs of competitive retail areas, such as Michigan.⁶

The Michigan Legislature's contribution to addressing the state's long-term resource adequacy concerns was passage of 2016 PA 341 (Act 341), which amends MCL 460.1 *et seq.*, to include Section 6w. Among many other things, MCL 460.6w(1) will authorize the Commission to implement a PSCM in the event that MISO's November 1, 2016 application is approved by the FERC and this Commission concludes through a contested case proceeding that the PSCM will be "more cost-effective, reasonable, and prudent than the capacity forward auction for this state." Section 6w(1) of Act 341. On the other hand, if the FERC fails to approve MISO's request for the option for Michigan to implement a PSCM, then under Section 6w(2) of Act 341 the Commission is charged with examining "whether a state reliability mechanism [SRM] established under subsection (8) would be more cost-effective, reasonable, and prudent than the capacity forward

⁶ MISO's Competitive Retail Solution (CRS) proposes utilizing a three-year FRA with a sloped demand curve. MISO maintains that the three-year forward procurement of capacity will improve market transparency through forward price signals that existing capacity resources and potential new generation resources will rely upon when making investment decisions, and that a variable, downward-sloping demand curve will reduce price volatility and ensure long-term resource adequacy by facilitating market outcomes that reflect the value of sustained reliability. MISO's filing may be accessed at <https://www.misoenergy.org/Library/Repository/Tariff/FERC%20Filings/2016-11-01%20Docket%20No.%20ER17-284-000.pdf>.

auction for this state before the commission may order the state reliability mechanism to be implemented in any utility service territory.” Section 6w(2) of Act 341. Under either scenario, the Commission is required to follow the procedures set forth in Section 6w(3) to establish either a PSCM charge or an SRM charge if it is determined that such alternative is more cost-effective, reasonable, and prudent than MISO’s FRA. Section 6w of Act 341 also provides that if the FERC has not, by September 30, 2017, put into effect a resource adequacy tariff that includes a capacity forward auction or a prevailing state compensation mechanism, then the Commission *shall* establish a state reliability mechanism. Such a circumstance would obviate the need to find that the state reliability mechanism is more cost-effective, reasonable, and prudent than a capacity forward auction.

The Commission readily acknowledges that the FERC has yet to rule on MISO’s November 1, 2016 application and that Act 341 will not become effective until April 20, 2017. However, because: (1) resource adequacy is crucial to this Commission’s regulatory responsibilities and the state’s economy and the lives of all of its residents; (2) any uncertainties raised by MISO’s November 1, 2016 filing will eventually be resolved by the FERC; (3) the effective date of Act 341 is rapidly approaching; and (4) time is of the essence and it is important to have a thorough examination of testimony and arguments on these issues in order to make an informed decision, the Commission finds that a schedule for processing ~~of~~ this case must be established at this time. It is possible that by the end of the process outlined for this case the FERC’s decision will be known, Act 341 will have become effective, and the path that the Commission will need to follow will be more certain.

DTE Electric shall file an application and supporting testimony on March 3, 2017, that address the following matters:

a. Whether the capacity mechanisms described in Sections 6w(1) and (2) of Act 341 are more cost-effective, reasonable, and prudent than MISO's FRA.

b. If the capacity mechanisms described in Sections 6w(1) and (2) of Act 341 are more cost-effective, reasonable, and prudent than MISO's FRA, then following the requirements set forth in Section 6w(3) of Act 341, how should the appropriate capacity mechanism be calculated for DTE Electric, and what is the appropriate term for the charge.⁷

Administrative Law Judge Mark D. Eyster (ALJ) has been assigned to preside over this proceeding. The ALJ need not prepare a proposal for decision because the schedule established for this proceeding is premised upon the Commission's intent to read the record. All parties to this proceeding should be aware of the extreme importance of a timely resolution of this case based on a record that is well developed. Accordingly, the Commission admonishes all parties to be responsive to discovery requests. Specifically, DTE Electric shall provide prompt and adequate responses to avoid discovery disputes that might interfere with the timely disposition of this case.

Under the proposed MISO tariff, the Commission must issue a final order in this proceeding before December 1, 2017. To accomplish this, the Commission orders the following procedures and deadlines shall be adhered to in this proceeding:

1. The Commission's Executive Secretary shall electronically serve a copy of this order on DTE Electric, Energy Michigan, the Association of Businesses Advocating Tariff Equity (ABATE), the Retail Energy Supply Association (RESA), and on every licensed alternative electric supplier in Michigan.

2. Within 10 days following issuance of this order, DTE Electric shall serve a copy of this order on all participants to its most recently concluded general rate case and on all of its retail open access customers.

3. By March 3, 2017, DTE Electric shall file an application fully supported by testimony and exhibits explaining whether the capacity mechanisms described in Sections 6w(1) and (2) of

⁷ DTE Electric shall calculate the capacity mechanism(s) as a retail charge to be paid by ratepayers.

Act 341 are more cost-effective, reasonable, and prudent than would be MISO's capacity forward auction, and, if so, how the appropriate capacity mechanism should be calculated for DTE Electric in accordance with Section 6w(3) of Act 341.

4. Interested persons shall submit timely petitions to intervene no later than 5:00 p.m. March 10, 2017.

5. The ALJ shall conduct a prehearing conference at 9:30 a.m. on March 16, 2017 at the Commission's Lansing offices, 7109 W. Saginaw Highway, Lansing, Michigan, 48917. At the prehearing conference the ALJ shall rule on all intervention petitions, make minimal scheduling adjustments, and establish and emphasize the importance of strict adherence to discovery turnaround times. The ALJ shall conduct the proceedings in an expedited manner so as to close the record in time to transmit the matter to the Commission no later than October 30, 2016. In doing so, the ALJ need not prepare a proposal for decision because the Commission intends to read the record.

6. Staff and intervenor testimony and exhibits shall be filed by 5:00 p.m. July 21, 2017.

7. Rebuttal testimony and exhibits by all parties shall be filed by 5:00 p.m. August 11, 2017.

8. Motions to strike by all parties shall be filed by 5:00 p.m. August 25, 2017.

9. Responses to motions to strike shall be filed by 5:00 p.m. August 31, 2017.

10. Hearings on the motions to strike and cross-examination of all direct and rebuttal cases shall occur from September 5 to 15, 2017.

11. Initial briefs are to be filed by 5:00 p.m. on October 16, 2017.

12. Reply briefs are to be filed by 5:00 p.m. on October 30, 2017.

THEREFORE, IT IS ORDERED that:

A. The Commission's Executive Secretary shall electronically serve a copy of this order on DTE Electric Company, Energy Michigan, the Association of Businesses Advocating Tariff Equity, the Retail Energy Supply Association, and on every licensed alternative electric supplier in Michigan.

B. Within 10 days following issuance of this order, DTE Electric Company shall serve a copy of this order on all participants to its most recently concluded general rate case and on all of its retail open access customers.

C. By March 3, 2017, DTE Electric Company shall file an application fully supported by testimony and exhibits explaining whether the capacity mechanisms described in Sections 6w(1) and (2) of Act 341 are more cost-effective, reasonable, and prudent than would be the Midcontinent Independent System Operator, Inc.'s capacity forward auction, and, if so, how the appropriate capacity mechanism should be calculated for DTE Electric Company in accordance with Section 6w(3) of Act 341.

D. This contested case proceeding shall be presided over by Administrative Law Judge Mark D. Eyster in accordance with the schedule established by this order.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

By its action of January 20, 2017.

Norman J. Saari, Commissioner

Kavita Kale, Executive Secretary

Rachael A. Eubanks, Commissioner